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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,573	12/28/2001	Ian Faye	10191/2172	1542

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NEW YORK, NY 10004

EXAMINER

NGUYEN, XUAN LAN T

ART UNIT	PAPER NUMBER
3683	

DATE MAILED: 08/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicant No .	Applicant(s) <i>[Signature]</i>
	10/034,573	FAYE, IAN
	Examiner Lan Nguyen	Art Unit 3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 June 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10,12-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10,12-21 and 23-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 16 June 2003 is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on 6/16/03. These drawings are approved.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-5, 8-10, 23 and 25 are rejected under 35 U.S.C. 102(a) as being anticipated by Troester et al. (DE 19854463 C1).

Re: claims 1, 10, 23 and 25, Troester et al. show a system for avoiding a rollover, as in the present invention, comprising: a first arrangement for reducing a brake force wherein the first arrangement is activatable by the angle of inclination, wherein the first arrangement to reduce the braking force is activated as a function of a slip at the front wheel to reduce the braking force of a rear wheel while the vehicle is traveling backward on a slope, see page 4, lines 30-end of the translation submitted with the Amendment dated 6/16/03. Note that Troester does not specifically recite the slippage occurring at the front wheel and that the reduction of braking force is occurring at the rear wheel. However, according to the law of physics, for a vehicle to travel backward on a slope to

rollover, the front wheels must lose their grip of the road while the rear wheels are braking too hard. Consider the other alternatives: if all four wheels lose their grip, the vehicle would simply slide down the slope or if the rear wheels lose their grip while the front wheels are gripping the road then the vehicle would effectively stop. Inherently, in order to avoid a rollover situation when the front wheels slip, the braking force of the back wheels would have to be reduced, as is the objective of the patent document of Troester.

Re: claim 2, Troester shows in the last two lines of the Abstract, that one of the actuating factors is the center of gravity of the motor vehicle.

Re: claim 3, Troester shows that the reduction in braking force is a function of a slip (i.e. spin control).

Re: claim 4, it is inherent in any vehicle dynamic control system to either closing an inlet valve or opening an outlet valve to control the brake pressure.

Re: claim 5, Troester shows inclinometer as "detected road inclination".

Re: claims 8 and 9, Troester shows axR , axS as the actual retardation and $aRef$ as a brake for reference wherein the brake reduction would be activated when the reference signal is exceeded.

4. Claims 12-16, 19-21, 24 and 26 are rejected under 35 U.S.C. 102(a) as being anticipated by Troester et al. (DE 19854463 C1).

Re: claims 12, 21, 24 and 26 Troester et al. show a method for avoiding a rollover, as in the present invention, comprising: a first arrangement for reducing a brake force wherein the first arrangement is activatable by the angle of inclination,

wherein the first arrangement to reduce the braking force is activated as a function of a slip at the front wheel to reduce the braking force of a rear wheel while the vehicle is traveling backward on a slope, see page 4, lines 30-end of the translation submitted with the Amendment dated 6/16/03. Note that Troester does not specifically recite the slippage occurring at the front wheel and that the reduction of braking force is occurring at the rear wheel. However, according to the law of physics, for a vehicle to travel backward on a slope to rollover, the front wheels must lose their grip of the road while the rear wheels are braking too hard. Consider the other alternatives: if all four wheels lose their grip, the vehicle would simply slide down the slope or if the rear wheels lose their grip while the front wheels are gripping the road then the vehicle would effectively stop. Inherently, in order to avoid a rollover situation when the front wheels slip, the braking force of the back wheels would have to be reduced, as is the objective of the patent document of Troester.

Re: claim 13, Troester shows in the last two lines of the Abstract, that one of the actuating factors is the center of gravity of the motor vehicle.

Re: claim 14, Troester shows that the reduction in braking force is a function of a slip (i.e. spin control).

Re: claim 15, it is inherent in any vehicle dynamic control system to either closing an inlet valve or opening an outlet valve to control the brake pressure.

Re: claim 16, Troester shows inclinometer as "detected road inclination".

Re: claims 19 and 20, Troester shows axR, axS as the actual retardation and aRef as a brake for reference wherein the brake reduction would be activated when the reference signal is exceeded.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Troester et al.

Re: claims 6 and 7, Troester's brake system, as discussed in the rejection of claim 1, lacks alternate methods of estimating the inclination angle. It is old and well known in the art to estimate the angle of inclination using either the mass or the rotation speed of the wheel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated these estimated methods as a way of saving the cost of purchasing an additional inclinometer; since the mass of the vehicle and the rotation of the wheel are readily available in any vehicle with a brake control system.

7. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Troester et al.

Re: claims 17 and 18, Troester's method of avoiding rollover, as discussed in the rejection of claim 12, lacks alternate methods of estimating the inclination angle. It is old and well known in the art to estimate the angle of inclination using either the mass or the rotation speed of the wheel. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated these estimated methods as a way of saving the cost of purchasing an additional inclinometer; since the mass of the vehicle and the rotation of the wheel are readily available in any vehicle with a brake control system.

Response to Arguments

8. Applicant's amendment dated 6/16/03 overcomes the rejection based on the patent to Pickenhahn. However, it does not overcome the rejection to Troester, et al. The rejection is repeated above.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

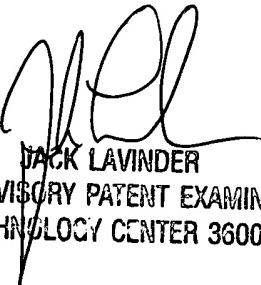
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lan Nguyen whose telephone number is 703-308-8347. The examiner can normally be reached on M-F, 8 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned is 703-872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.

XLN

XLN
August 11, 2003



JACK LAVINDER
SUPERVISORY PATENT EXAMINER
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